



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Although the court attempted to justify its decision on reason and principle, if the situation is fully considered from the plaintiff's viewpoint, the more weighty reason appears to be in his favor. His only evidence is the wrongful presence of the nail in the cake, and unless the *prima facie* presumption of negligence is placed upon the defendant who has better means for investigating the cause of the accident, the plaintiff can have no evidence to place the responsibility on any one for his injury.

EXTRADITION—FUGITIVE FROM JUSTICE—EFFECT OF PREVIOUS DELIVERY TO ANOTHER STATE OF THE ACCUSED BY THE DEMANDING STATE.—The plaintiff, having committed a crime in California, went to Texas, where he committed another crime. While held in custody in Texas a requisition issued by the governor of California was honored and the plaintiff was given up to an agent of the former state. He was taken back to California but the charge in that state was not pressed to trial. Thereupon the governor of Texas made requisition upon the governor of California to have the plaintiff returned to answer for the offense committed in Texas. The plaintiff petitioned for a writ of *habeas corpus*. Held, the petition is denied. *In re Whittington* (Cal.), 167 Pac. 404.

Art. 4, sec. 2 of the United States Constitution provides that, "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime." This provision of the Constitution does not direct the surrender of a person found within the boundaries of a state, unless it is made to appear that he is in fact a fugitive from justice. *Ex parte Reggel*, 114 U. S. 642. But the words "fugitive from justice," as used in this connection, must not be understood in their literal sense, but rather in reference to the subject matter of the Constitution and the laws of the United States in relation thereto. *Hibler v. State*, 43 Tex. 197.

It seems generally agreed that if a person commits a crime in one state, for which he is indicted, and departs therefrom and is found in another state, the executive warrant from the demanding state is *prima facie* evidence that the accused is a fugitive from justice. *Ex parte Edwards*, 91 Miss. 621, 44 South. 827. One court has even gone so far as to hold that such facts establish conclusively that one is a fugitive from justice. *People v. Pinkerton*, 17 Hun (N. Y.) 199.

It has long been established that for purposes of extradition between the States of the Union, it does not matter what induced the departure of the criminal. *Drew v. Thaw*, 235 U. S. 432. See 2 VA. LAW REV. 472. Whether a person is a fugitive from justice does not depend on whether he has consciously and literally fled from another state for the purpose of avoiding trial, but upon whether having actually—not merely constructively—committed a crime within another state, he has departed therefrom. *Ex parte Duddy*, 219 Mass. 548, 107 N. E. 364; *Roberts v. Reilly*, 116 U. S. 80. Accordingly, one who commits a crime

in one state and returns to his home in another state, is a fugitive from justice. *Ex parte Swearingen*, 13 S. C. 74. And it has been held that one who has been induced by false statements and fraud to enter a state, in order that extradition might be effected, was a fugitive from justice. *Ex parte Brown*, 28 Fed. 653.

In a recent case, the governor of Texas made requisition upon the governor of Oregon for a person charged with having committed a crime in the former state, and who had previously committed a crime in Georgia and then fled to Oregon. The accused was delivered over to the state of Texas, and acquitted, but before she left that state, the governor of Georgia sought to have her extradited, and the United States Supreme Court held that she was a fugitive from justice from Georgia. *Innes v. Tobin*, 240 U. S. 127. It seems, however, that this case may be distinguished from the instant case, in that the accused voluntarily left the state in which the crime was committed, while in the instant case, the accused was removed against his will and by the authority of the state in which the crime was committed.

It is unfortunate to allow the petitioner in the instant case to go unpunished, if guilty of a crime, but the holding seems sound and the failure of justice is rather to be attributed to laches on the part of the Texas authorities in not prosecuting the accused before turning him over to the State of California.

HOSPITALS—DUTY TO PATIENTS—THEFT OF RING BY NURSE.—The plaintiff, a pay patient in a hospital operated for pecuniary gain, while under the influence of ether had a ring stolen from her hand by one of the nurses in the operating room. Action was brought against the hospital for violation of its duty owed to the plaintiff. *Held*, the hospital is liable. *Fannah v. Hart Private Hospital* (Mass.), 117 N. E. 328.

It is not denied that a master is liable for the torts of his servant committed within the scope of the servant's employment. *Brown v. La Société Française*, 138 Cal. 475, 71 Pac. 516. See *Fairbanks v. Boston Storage Warehouse Co.*, 189 Mass. 419, 75 N. E. 737, 13 L. R. A. (N. S.) 422. But a master may be held liable for the tortious acts of the servant, though not within the scope of his employment, if the tortious act was a breach of duty owed by the master to the person injured. Thus a common carrier has been held liable for assaults made upon a passenger by its table waiters. *Bryant v. Rich*, 106 Mass. 180, 8 Am. Rep. 311.

The duty owed by a hospital to its patients varies according to whether it is a charitable institution or organized for pecuniary gain. A charitable institution having used due care in the selection of its agents and servants is not liable for their negligence. *McDonald v. Massachusetts General Hospital*, 120 Mass. 432, 21 Am. Rep. 529. For a discussion of the principles governing such cases, see 1 VA. LAW REV. 636.

But a hospital organized for pecuniary gain is under a duty to exercise ordinary care in the treatment of its patients. *Hogan v. Clarksburg Hospital Co.*, 63 W. Va. 84, 59 S. E. 943. A hospital in assuming